

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Amendment of Part 97 of the Commission's)	
Rules To Implement WRC-03 Regulations)	WT Docket No. 05-235
Applicable to Requirements for Operator)	
Licenses in the Amateur Radio Service)	

COMMENTS OF JOSEPH SPERONI, AØHA.

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I. Introduction

1. Commenter, Joseph Speroni (FCC licensee, AHØA), initially reviewed NPRM 05-235 primarily as it relates to the Morse code testing requirements for Amateur Radio licenses.
2. In the course of the review it became apparent that Morse code testing is only part of the broader issue of licensing requirements. Many commenters to the NPRM feel strongly that the process needs attention, both as it relates to the Morse code testing and the written examination process.

II. Amateur Community Comments on Testing Requirements

3. A large segment of the amateur community supports retaining CW for at least the Extra Class license. Analysis of ECFS comments on this NPRM show more than 50% support for maintaining the requirement. See <http://www.ah0a.org/FCC/05-235/Nom.html> for the latest statistics. Of those supporting continuation of Morse code testing in some form, a considerable percentage requested General and Extra written tests be "improved".

4. Of those supporting dropping all Morse code testing a large percentage did so with the proviso that the General and Extra question pools be changed to make them cover more technical detail. They feel the pools are simple and do not address new technologies, e.g. digital technology. Many who supported dropping all Morse code testing might well reverse their opinion if they felt that their voices recommending question pool improvements were not being heard.
5. The ARRL, the largest amateur radio organization in the U.S. supports retaining Morse testing for the Extra Class license, mirroring the position of its more than eighty thousand members.
6. CQ Magazine, with large circulation in the amateur community has clearly stated its opinion on the issue, after having polled its readership with the following results:

- i. Question:

- Do you think the FCC should (choose one):

- Response: (% of all respondents)

- Eliminate the code test requirement for all amateur licenses: 25%
 - Eliminate the code test requirement for General, but keep it for Extra: 21%
 - Replace current 5wpm code test with a code recognition test or similar: 4%
 - Leave the code test requirement as it is: 50%

7. Several large clubs submitting comments on this NPRM have supported retaining Morse code testing at some level:

Lewes Amateur Radio Society, W3LRS
Northwest Louisiana DX Society
SPARS (Society for the Preservation of Amateur Radio)
City College of San Francisco English Department

8. Clearly a majority of the Amateur community desires improvements in licensing requirements that have not been addressed by NPRM 05-235. The inability to find a process via the FCC to address these concerns is frustrating these interests.
9. The Commission established mechanism for concerned amateurs to submit individual candidate questions to an unelected three man QPC. This same group, ostensibly representing book publishing interests, has no accountability to the amateur community. This process is viewed by many as leading to a continuous deterioration of licensing requirements and concerns the amateur community.

The Commission should have created a process that permitted other technically competent organizations to participate, and made the actions of the NCVEC, VECs and the QPC open to the public.

Commenter previously raised issues of NCVEC public accountability in his petition of 09/02/2003 that was never released for public comment. A copy remains on ECFS at,

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6515082598

III. Other Administration's WRC-2003 Actions

10. Many countries have not completely removed CW from the licensing system after their review of necessary or desirable changes recommended by WRC-2003.
11. Japan retains Morse code testing requirements for its 1st and 2nd Class licensees, roughly equivalent to Extra and General in the U.S. (To be fair it should be noted that 4th licensees enjoy wide access to HF bands without the need for Morse testing with stations operating at low power – 10 watts).
12. Canada has substituted Morse testing that confers a 10% advantage on the written tests, giving recognition to the importance of manual Morse code skills in amateur radio. Candidates who pass any written examination with a 85% score receive a license, while a score of 75% is sufficient if the candidate passes a Morse examination.
13. Russia, Argentina, Denmark and Venezuela continue to support Morse testing after review of WRC-2003 changes.
14. The UK, despite having dropped Morse testing as a condition for HF access, continues testing, at the option of the candidates. This is important for UK amateurs wishing to operate under reciprocal agreements in countries still requiring Morse testing.
15. Significant publicity has been given to announcement of countries dropping CW from testing requirements. Less than 25% of countries have yet to act on the question and the actions of the above countries are apparently little known to most commenters to the petition. Many countries in the “21st century” still support Morse code testing.
16. Since WRC-2003, CEPT has made clear that it supports optional Morse code testing, based on the desire an need of its member countries,

<http://www.ero.dk/3D2E22E0-1F21-4638-80FE-EF2B09171F7B.W5Doc?frames=no&>

Nothing in WRC 2003 compels the Commission to ban all Morse code testing. It can and should consider all of the voices of its amateur community.

17. CEPT has a well documented syllabus for written tests in TR 61-02 (the U.S. does not participate in this agreement, although Australia, Hong Kong, Israel and South Africa have taken advantage it.)

<http://www.ero.dk/documentation/docs/doc98/official/pdf/TR6102.PDF>

18. The following are examples of the licensing discipline engendered in UK in 2005 for their Foundation, Intermediate and Full license classes,

http://www.ofcom.org.uk/radiocomms/ifi/licensing/classes/amateur/technical/found_exam_sylbs.pdf
http://www.ofcom.org.uk/radiocomms/ifi/licensing/classes/amateur/technical/int_sylbus.pdf
<http://www.ofcom.org.uk/radiocomms/ifi/licensing/classes/amateur/technical/syllabus.pdf>

19. The current U.S. Amateur licensing requirements as documented by the NCVEC/QPC do not compare favorably with actions taken by other administrations since WRC-2003.
20. In view of the large number of comments requesting action to improve written tests, the Commission response that requests are “vague” is disingenuous since the ability to be explicit relates to the current NCVEC/QPC process. The Commission as part of its process in devolving authority over the licensing requirements should have allowed other competent organizations to operate with the QPC in defining the syllabuses and questions for U.S. licensing requirements.

The opaque actions of the NCVEC/QPC are a poor substitute for the open government policies followed the FCC.

Allowing the NCVEC, with its unique access to Commission staff, to enter the regulation process should be outside its purview. Commission review of RM-10787, submitted in the name of the NCVEC permitted their involvement in an issue outside the charter given them by the FCC. Formal recognition of RM-10787 gave undue credence to proposals not support by the amateur community at large¹.

21. A two step process allowing a syllabus to be explicitly developed *prior to defining questions* would go a long way in allaying concerns of the experts in the Amateur Radio community. An Internet based process clearly documenting decisions taken would give authority and badly needed accountability to the process.

IV. **Reciprocity**

22. If all Morse testing is removed from the system there will be no formal way for new U.S. licensees to certify that they do indeed have requisite skills to operate in countries that require Morse testing. For example, new General or Amateur Extra Class licensees may not be given even a Japanese 2nd Class equivalent reciprocal permit in Japan if they do not have these skills.

It is in the best interests of the general public that the Commission clearly addresses this issue.

V. **Potential Congestion**

23. As part of the regulation process, the Commission is charged with the responsibility to minimize station interference in all radio services. Clearly this has been an issue in the recent past with the Citizen Band radio service. Allocations were not able to keep up with the increase in the number of stations.

¹ It is hoped the Commission and the NCVEC will in the future restrict their mutual activities to the questions of test syllabuses, question pools and the technical matters of the testing process. The NCVEC and VECs have no elected officers or public memberships. The NCVEC forum is not a proper one to explore the interests of the amateur community.

24. The HF bands are particularly vulnerable since they are a limited internationally shared resource. Since restructuring in April 2000, the number of HF authorized amateurs grew by 15%, with no increase in allocations. The effect on congestion is larger since many of those removed from the roles during that period were not active.
25. International concerns may develop if U.S. amateur phone band congestion becomes significant. This in turn may have unintended effects on U.S. CW/digital bands as stations in our hemisphere move operation to avoid U.S. phone stations. For example, Canadian phone stations may feel the necessity to operate in the U.S. CW/digital bands to avoid congestion.
26. The NPRM should attempt to quantify the impact to HF band congestion. It may be significant. If estimates justify concern, perhaps changes to the licensing system should be spread out over a number of years to verify that congestion is being properly managed. Band congestion should be an important factor in making changes to licensing requirements.

VI. The Extra Class License

27. The Extra Class license group is unique in that it has continuously grown every month since 1997, before and after restructuring in April 2000. Other classes have varied widely during the same period. Extra's have grown at a compounded 4.6% per annum over these eight years (and probably prior to that also, but no data is available to verify that). See www.ah0a.org, for data on license growth.

There is no apparent barrier to attaining this highest class license; no pressing need to further reduce licensing requirements.

28. In the NPRM the Commission has not demonstrated current licensing requirements for an Extra Class license harm the public interests nor have they been shown to be at variance with decisions of other country's competent licensing authorities. There is no pressing need to relax the requirements.

VII. Examination Requirements

29. CQ Magazine, in paragraph §40 of their comment on the NPRM, captured the concern of many amateurs who feel the examination system is broken.

“40. The success of our system of government is based largely on accountability. The people, through their elected representatives in Congress, may hold federal agencies accountable for their actions. This prevents abuses that are all too common in other countries with other systems of government. When a federal agency such as the FCC gives up its authority over one of its functions to a non-elected, non-accountable, group of (currently) **three private citizens** who have not even been appointed by the Commission and are not responsible to the Commission, the chain of accountability is broken. The people have no recourse if they are unsatisfied. The chain of accountability must be restored. We must be able to come to the Commission if we are unsatisfied with the structure or content of FCC license exams and be able to bring our concerns to someone with authority to require necessary changes. We respect and appreciate the hard work of the QPC, but the Commission must reassert its oversight authority in the process of developing as well as administering amateur exams.”

Commenter hopes the Commission hears and understands these concerns.

30. NRPM paragraph §37 states, “Requests that written examinations be revised to test “improved technical and operating skills” or increased “technical level” are vague because there is no objective means to measure technical and operating skills.” If FCC syllabuses like those documented by the UK OFCOM existed, a less subjective measure would be possible.

Prior to 2002 formal syllabuses were published (by the ARRL VEC) before revision of question pools. Updates since that date have occurred in the absence of prior formal release of syllabuses and no attempt has been made to allow the Amateur community input in developing them. An opaque process has resulted in the increasing number of voices for testing with “improved technical and operating skills.” The absence of syllabuses is offered as a plain fact documenting the need. *(thought not to be vague.)*

The NCVEC/QPC has announced a new Technician question pool to be released in January 2006 for which there is no agreed syllabus. Given the public position of the NCVEC in RM-10787, this risks being a major departure from previous examinations for which the amateur community has had no input.

31. Paragraph §37 also states, “the purpose of the written examinations, under our rules, is not to determine whether a person has achieved a particular level of skill, but rather to determine whether an individual can properly operate an amateur station.” This statement, which appears to contradict important sections of Part 97 can lead to further deterioration of licensing requirements.

Previously in the restructuring Report & Order 99-412 paragraph §40, the Commission used a slightly more expansive statement, “The purpose of the written examination is to allow the applicant to demonstrate that he or she possesses the operational and technical qualifications required to perform properly the duties of an amateur service operator licensee.”

32. The Commission should take care to clarify its meaning of “operate” to encompass the intents of Part 97.

Part §97.503 (b) states “A written examination must be such as to prove that the examinee possesses the operational and technical qualifications required to perform properly the duties of an amateur service licensee.” Further §97.1 Basic purposes lists requirements that go well beyond “operate” in meaning,

97.1 Basis and purpose.

The rules and regulations in this Part are designed to provide an amateur radio service having a fundamental purpose as expressed in the following principles:

- (a) Recognition and enhancement of the value of the amateur service to the public as a voluntary noncommercial communication service, particularly with respect to providing emergency communications.
- (b) Continuation and extension of the amateur's proven ability to contribute to the advancement of the radio art.
- (c) Encouragement and improvement of the amateur service through rules which provide for advancing skills in both the communications and technical phases of the art.
- (d) Expansion of the existing reservoir within the amateur radio service of trained operators, technicians, and electronics experts.
- (e) Continuation and extension of the amateur's unique ability to enhance international goodwill.

33. The NPRM justifies the removal of Morse testing based on its being just another mode, deserving of no special consideration. If this logic were applied to other aspects of testing, there would be no need to include questions on any mode in the question pools. Are modes such as EME, RTTY, FSK, PSM, Packet, PSK-31, SSTV or IRLP any more deserving to be included in licensing requirements? The logical end of this position could be to remove all technical content from all syllabuses.
34. The Commission states that continuation of Morse testing as a requirement for an Extra Class license “is not in the interest of the general public.” It is hard to understand how the Commission maintaining some level amateur interest and some level of amateur competence in the Morse code can harm the public’s interest. Even if only a few lives are saved each year because of the amateur community’s skills in Morse Code, that would seem to justify the amateur community’s desire to retain recognition of that skill. What public harm is created by this inaction?
35. The ability of simple low power CW equipment to “get thru” in conditions when voice or digital modes are not practical is given no consideration in Commission’s NPRM. No consideration is given to the availability of low cost equipment for “financially challenged” amateurs who actually build their stations to minimize costs. There are still valid reasons to promote use of the Morse Code and to continue its use as a testing requirement, in some form.

VIII. **Recommendations**

36. Element 1 be retained for:

- a. Technician licensees (optionally) to obtain the additional HF privileges currently accorded to Novice licensees, or to be accorded them after pending action on Novice band “refarming”.
- b. General Class licensees (optionally) as documentation for reciprocal licensing.
- c. Extra Class licensees (optionally).

Paragraph §97.501 would be modified as follows,

”§97.501 Qualifying for an amateur operator license.

Each applicant must pass an examination for a new amateur operator license grant and for each change in operator class. Each applicant for the class of operator license grant specified below must pass, or otherwise receive examination credit for, the following examination elements:

- (a) Amateur Extra Class operator: Elements 1 (optionally), 2, 3, and 4;
- (b) General Class operator: Elements 1 (optionally), 2, and 3;
- (c) Technician Class operator: Elements 1 (optionally) and 2.

37. The definition of Element 1 and testing requirements should be passed to the NCVEC/QPC so that the Commission does not have to deal with this contentious question in the future. Since the changes to S25, the Commission is no longer required to specify this test. That responsibility can be devolved to the NCVEC.

A new paragraph §97.524 would define the NCVEC responsibility as follows

§97.523 Telegraphy Examinations

All VECs must cooperate in maintaining a single standard for Element 1 testing requirements for each license class. Testing requirements must be published and made available to the public prior to changes.

Commenter fully expects that this change would result in

- a. Morse testing being available for any amateur desiring it, for example for use as proof of skills required for reciprocal licensing.
- b. The Morse requirement being dropped as a requirement for a General Class license.
- c. The 5 wpm (or possibly higher speeds) Morse code requirement being retained as a requirement for an Extra Class license. (because of support by the ARRL VEC).
- d. Flexibility to raise, lower or abolish Morse requirements depending on the desires of the amateur community, without the involvement of Commission resources.

38. The function of providing amateurs with a certificate verifying successful completion of a Morse examination should be formally added to the VE team responsibility.

§97.509 Administering VE requirements.

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(l) Administering VECs, upon receipt of an applicants request must issue a Morse compliance certificate to an examinee scoring a passing grade on a VE administered Element 1 examination.

39. Commission action to improve the openness and accountability of the NCVEC and its members would alleviate some of the concerns of the amateur community. Commenter proposes one additional requirement of participating VECs.

§97.521 VEC qualifications.

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(e) Agree to make public, upon request, information about their participation in the testing process. Information such as use of monies collected from applicants, development of testing syllabuses, the process of selecting questions, pass/fail rates and minutes to meetings with Commission staff are among those of interest to the amateur community and general public.

Respectfully submitted

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Dated: October 25th, 2005

